

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1379 be amended to read as follows:

- 1 Page 3, between lines 34 and 35, begin a new paragraph and insert:
2 "SECTION 4. IC 22-3-4-13.1 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2009]: **Sec. 13.1. (a) In an action before the**
5 **worker's compensation board against an employer that denied**
6 **eligibility for benefits under this article because the employer**
7 **misclassified an employee as an independent contractor, the**
8 **worker's compensation board may award to the employee or the**
9 **dependents of a deceased employee all of the following:**
10 **(1) Compensation not to exceed double the compensation**
11 **payable to the employee under this article.**
12 **(2) Payment or reimbursement of the employee's medical**
13 **expenses payable under this article.**
14 **(3) Reasonable attorney's fees.**
15 **(b) In addition to the amounts listed in subsection (a), the**
16 **worker's compensation board may assess a civil penalty not to**
17 **exceed one thousand dollars (\$1,000) against an employer for the**
18 **misclassification of an employee as an independent contractor.**
19 **(c) The worker's compensation board shall deposit civil**
20 **penalties collected by the worker's compensation board under**
21 **subsection (b) in the state general fund."**
22 Page 69, between lines 24 and 25, begin a new paragraph and insert:
23 "SECTION 49. IC 22-4-29-1 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1. (a) Contributions**
25 **unpaid on the date on which they are due and payable, as prescribed by**
26 **the commissioner, shall bear interest at the rate of one percent (1%) per**
27 **month or fraction thereof from and after such date until payment, plus**
28 **accrued interest, is received by the department. The board may**
29 **prescribe fair and reasonable regulations pursuant to which such**
30 **interest shall not accrue.**

(b) If the failure to pay any part or all of the delinquent contributions is due to negligence or intentional disregard of authorized rules, regulations, or notices, but without intent to defraud, there shall be added, as a penalty, ten percent (10%) of the total amount of contributions unpaid, which penalty shall become due and payable upon notice and demand by the commissioner.

(c) If the commissioner finds that the failure to pay any part or all of delinquent contributions is due to fraud with intent to evade the payment of contributions, there shall be added, as a penalty, fifty percent (50%) of the total amount of delinquent contributions, which penalty shall become due and payable upon notice and demand by the commissioner.

(d) If the commissioner finds that the failure to pay any part or all of the delinquent contributions is due to the misclassification of an employee as an independent contractor, there shall be added, as a penalty, fifty percent (50%) of the total amount of delinquent contributions. The penalty is due and payable upon notice and demand by the commissioner.

~~(d)~~ (e) Interest and penalties collected pursuant to this section shall be paid into the special employment and training services fund."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1379 as printed March 20, 2009.)

Senator SIMPSON